

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-20 are pending in this application. Claims 1-20 are amended by the present amendment. As amended Claims 1-20 are supported by the original claims, no new matter is added.

In the outstanding Official Action, the specification was objected to; Claim 1-20 were provisionally rejected under the doctrine of obvious-type double patenting as unpatentable over Claims 25-27, 29, 31, 36, 28, 32, and 33 of U.S. Patent Application No. 09/940,573; Claims 1-11 and 13-20 were rejected under 35 U.S.C. §102(b) as anticipated by Linderman (U.S. Patent Publication No. 2002/0032790, hereinafter "Linderman"); Claim 12 was rejected under 35 U.S.C. §103(a) as unpatentable over Linderman in view of 'Frequently Asked Questions about XML', (Microsoft, June 2000).

With regard to the objection to the specification, the specification does not list any parent U.S. Patent Applications. Accordingly, the status of parent U.S. Applications does not need to be updated. Further, the recitations of "Microsoft Corporation" and "IBM Corporation" on page 11 of the present specification are not referring to products using trademarks, but are references to specific companies. Accordingly, it is respectfully submitted that these references are in accordance with MPEP §608.01(v), as the proper name of the company is referenced. Accordingly, the objection to the specification is believed to be overcome.

With regard to the non-statutory double patenting rejection of Claims 1-20 over Claims 25-27, 29, 31, 36, 28, 32, and 33 of U.S. Patent Application No. 09/940,573, the rejection is respectfully traversed in light of the terminal disclaimer submitted herewith.

The filing of a terminal disclaimer to obviate a rejection based on non-statutory double patenting is not an admission of the propriety of the rejection. The "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection." *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991). Accordingly, Applicants' filing of the attached disclaimer is provided for facilitating a timely resolution to prosecution only, and should not be interpreted as an admission as to the merits of the obviated rejection.

With regard to the rejection of Claims 1-11 and 13-20 as anticipated by Linderman, that rejection is respectfully traversed.

The present application claims priority from French Patent Application No. 00/11320, filed August 31, 2000. In accordance with 37 C.F.R. §1.55(a)(4), enclosed please find an English translation of the certified copy of this application, along with a statement that the translation of the certified copy is accurate. (A certified copy of this application was previously submitted.) Applicant respectfully submits that the enclosed documents perfect the claim to priority to French Patent Application No. 00/11320 under 35 U.S.C. §119. The filing date of French Patent Application No. 00/11320, August 31, 2000, antedates the filing date of July 9, 2001 of Linderman. Therefore, applicant respectfully submits that Linderman does not qualify as prior art with respect to the present application under 35 U.S.C. §102. Only U.S. Provisional Application No. 60/208,045, filed May 31, 2000, predates the present application. Accordingly, application of the Linderman reference in this anticipation rejection is improper, and only the disclosure of U.S. Provisional Application No. 60/208,045 (P '045) will be treated herein.

Amended Claim 1 recites a communication system comprising, *inter alia*:

at least one processing unit capable of running a
program to provide automation functions; and

one or more remote devices running a computer program or group of computer programs, wherein the communications system is based on the Simple Object Access Protocol (SOAP) for the purpose of providing the remote device with supervision, display, control, configuration or programming functions of the automation equipment, and the communications system comprises, in the automation equipment, at least one WEB service or one WEB client which are capable of interacting with the program of the automation equipment, of decoding messages received from the IP network encoded according to the SOAP protocol and of encoding according to the SOAP protocol messages to be sent on the IP network.

The outstanding Office Action cited T-box 32 of Linderman as “at least one WEB service.”¹ However, P '045 does not illustrate or describe T-box 32 as shown in Figure 1 of Linderman. P '045 does not include any figures, and further only includes a general discussion of a product called “DaberNet.” It is respectfully submitted that P '045 does not teach or support the T-box 32 described in Linderman and alleged by the outstanding Office Action to be “at least one WEB service.” As P '045 does not teach each and every element of amended Claim 1, amended Claim 1 (and Claims 2-11 and 13-17 dependent therefrom) is not anticipated by P '045 and is patentable thereover.

With regard to the rejection of Claim 12 as unpatentable over Linderman in view of ‘Frequently Asked Questions about XML,’ it is noted that Claim 12 is dependent from Claim 1, and thus is believed to be patentable for at least the reasons discussed above with respect to Claim 1. Further, it is respectfully submitted that ‘Frequently Asked Questions about XML’ does not cure any of the above-noted deficiencies of P '045. Accordingly, it is respectfully submitted that Claim 12 is patentable over P '045 in view of ‘Frequently Asked Questions about XML.’

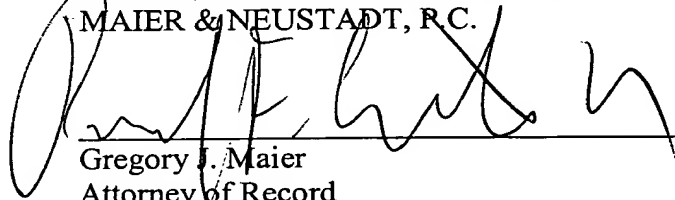
¹See outstanding Office Action, page 9, lines 2-3.

Independent Claims 18 and 19 recite similar elements to Claim 1, albeit in process form. Accordingly, Claims 18 and 19 (and Claim 20 dependent therefrom) is believed to be patentable over P '045 for at least the reasons described above with respect to Claim 1.

Accordingly, in view of the present amendment, no further issues are believed to be outstanding and the present application is believed to be in condition for formal allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLOON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

A handwritten signature in black ink, appearing to read 'Gregory J. Maier', is written over a horizontal line.

Gregory J. Maier
Attorney of Record
Registration No. 25,599

Raymond F. Cardillo, Jr.
Registration No. 40,440

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)